IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.36 OF 2006

Smt.Hirabai Nilkantha Bhosale & Anr. ..Applicants.

V/s.

The State of Maharashtra & Ors. ..Respondents.

Mr.Dilip Bodake for applicant.

Mr.A.R.Patil, AGP for respondent-State.

CORAM: A.M.KHANWILKAR,J

DATE : MARCH 8, 2006.

P.C. :

1. Heard counsel for the parties.

2. Rule.

3. Mr.A.R.Patil, AGP waives notice for the respondent. As short question is involved, the above application is taken up for final disposal forthwith by consent.

4. The order which is impugned in this revision application is passed by the Special Land Acquisition Officer(SLAO). This revision is under section 18(3) of the Land Acquisition Act, 1894 as applicable to the State of Maharashtra r/w Section 115 of the Civil

Procedure Code. The SLAO has rejected the application for making reference under section 18 of the Act on three grounds. Firstly, the application is not within limitation. Secondly, the applicants have not received the payment under protest. Thirdly, there is nothing to show that the applicants had filed objection under section 9(3)(4) of the Act.

5. In so far as later two grounds are concerned, the applicants have justly relied on the decision of our High Court in the case of **Manjiri Ranganath Kulkarni V/s.State of Maharashtra reported in 2003(1) All MR 27** to contend that application for making reference under section 18 cannot be rejected by the SLAO on the ground other than that the application was beyond limitation period or that it was not in relation to claim for enhancement of compensation awarded for acquisition of land or that application was not by an interested person. As mentioned earlier the later two grounds do not qualify the category available for the rejection of the application by the SLAO.

6. The only ground that remains to be considered as stated by the SLAO, is that the application is not within limitation. This reason cannot be sustained

in view of the office noting made on the application. The relevant dates against the respective columns are mentioned. It clearly mentions the date of the award i.e. 16th June, 2004 as well as date of service of section 12(2) notice i.e. 25th March, 2005 and the date on which the subject application was made as 30th April, 2005. It is not the case of the respondent that the applicants were present when the award was pronounced by the authority. If so, the limitation would commence from the date of the service of Section 12(2) notice which date is mentioned in the office noting as 25th March, 2005. The application as per the office noting of the respondent was filed on 30th April, 2005. Having regard to these dates, which are available from the record and noted in the office note made by the respondent, the question of rejecting the subject applications on the ground of limitation does not arise. Accordingly, even ground No.1 mentioned by the SLAO will have to be set aside. Thus understood, this revision application succeeds. The application preferred by the applicants will have to be granted by directing the SLAO to make reference before the court under section 18 of the Act in this case.

7. Revision Application disposed of on the above

terms with no order as to costs.